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INFO RUEHEE/ARAB LEAGUE COLLECTIVE PRIORITY

RUEHZO/AFRICAN UNION COLLECTIVE PRIORITY

RUCNFUR/DARFUR COLLECTIVE PRIORITY

RUEHGG/UN SECURITY COUNCIL COLLECTIVE PRIORITY

RUEHDS/AMEMBASSY ADDIS ABABA PRIORITY 1339

RUEHEG/AMEMBASSY CAIRO PRIORITY 0842

RUEHKH/AMEMBASSY KHARTOUM PRIORITY 0754

RUEHNJ/AMEMBASSY NDJAMENA PRIORITY 0293

RUEHTC/AMEMBASSY THE HAGUE PRIORITY 8885

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SUBJECT: UNSC/SUDAN: PREVIEW OF JUNE 7 ICC BRIEFING

REF: SECSTATE 070477

¶1. (SBU) Office of the Prosecutor (OTP) Jurisdiction, Complementarity and Cooperation Division Director Beatrice Le Fraper du Hellen previewed for Poloff International Criminal Court (ICC) Prosecutor Luis Moreno-Ocampo's June 7 briefing on June 6. Le Fraper said Ocampo's main message would be that the Sudanese Government of National Unity (GNU) was both able and legally obligated to carry out the arrest warrants for Ahmad Harun and Ali Kushayb. Le Fraper confirmed that the Pre-Trial Chamber's decision and arrest warrants were publicly available since May 1 and reported that the Registry would meet with Sudanese representatives in The Hague on June 7 to proceed with formal notification. She noted that Ocampo would not make any specific request of the UNSC for assistance during his June 7 briefing but hoped nonetheless the Council could stress during its June 17 stop in Khartoum the need for the GNU to hand over these two individuals. Le Fraper added that Ocampo would make clear to the UNSC that the OTP was monitoring present crimes committed in Darfur, as well as their spillover effects, noting in particular aerial attacks against civilian villages, which constituted crimes under the Rome Statute. Le Fraper said the OTP focused not on the quantity of such attacks but rather on their gravity and added that both the GNU and the rebel movements were guilty of this type of violence. She was particularly concerned about what the OTP considered organized violence around IDP camps, which were aggravated by Harun's continued tenure as Minister of State for Humanitarian Affairs.

¶2. (SBU) Le Fraper said Ocampo expected pushback from Qatar and Russia about the issue of admissibility. She reported that the GNU had announced national proceedings against Kushayb only for "lesser crimes" in Darfur and that these proceedings drew no link to Kushayb's affiliation with Harun, whereas the OTP was prosecuting both Harun and Kushayb for alleged acts committed together. She added it was not clear where Kushayb was, held as he was in "tribal custody" either in Khartoum or Darfur. According to Le Fraper, the Sudanese Permanent Representative (PR) was expected to make an "announcement" in the June 7 meeting, which, in the best-case scenario, would be to surrender Harun and Kushayb but more likely to make a formal challenge against their indictments.

¶3. (SBU) On Chad, the OTP was investigating "serious allegations" of crimes in Tiero and Marena and would continue to monitor the "constant" border incursions from Darfur into eastern Chad. Le Fraper said that the GOC, which, as of

January 1, became a State Party to the Rome Statute, had so far been helpful. On Central African Republic (CAR), the ICC had on May 10 opened investigations into crimes committed in 2002-2003 and announced them on May 22. The OTP is also monitoring activities in northeastern and northwestern CAR.

¶4. (SBU) As of June 6, the OTP had so far met with the current UNSC President (Belgium), Qatar, African UNSC Members and Arab states. Le Fraper noted that the Arab League had been helpful in supporting the ICC's work in Darfur by refusing, despite Khartoum's entreaties, to make statements against the ICC (NOTE: According to the OTP, Khartoum was now enlisting Organization of the Islamic Conference assistance in denouncing the ICC. END NOTE). Le Fraper said League of Arab States Secretary-General Amre Moussa had stated that Harun's arrest "could not be excluded." Le Fraper also commented on the Chinese response; when Ocampo met Chinese PR Wang in December 2006, Wang had promised to relay to Khartoum his assessment that the OTP was carrying out its "judicial mandate" in Darfur.

¶5. (SBU) Le Fraper said that Ocampo would not engage in sanctions discussion with the UNSC but agreed that pressure on the GNU, whatever the form, was welcome in search of a comprehensive solution to the Darfur crisis. She considered the GNU's claim that international peacekeepers in Darfur would be mandated to execute ICC arrest warrants as an "opportunistic excuse" to continue opposing UN peacekeeping. In response to Poloff's question about the OTP's level of cooperation with UNMIS, Le Fraper said the OTP occasionally sought general information on the security situation, including attacks on peacekeepers, and might eventually seek peacekeepers'/observers' testimony on Darfur crimes. She added that the OTP had met with S/WCI several months ago

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about possible exchanges of information and would follow up on this meeting in the near future.
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